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IAB # SH2382110



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

September 8, 2016

Captain Steven Katz
Homicide Bureau
Los Angeles Sheriff's Department
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of John Berry
J.S.I.D. File #15-0338
L.A.S.D. File #015-13249-1321-013

Dear Captain Katz:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 6, 2015, fatal shooting of John Berry by Deputies Anthony Johnson, Michael Bitolas, Roberto Solorio and Eric Saavedra. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

JAMES GARRISON
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Anthony Johnson, #[redacted]
Deputy Michael Bitolas, #[redacted]
Deputy Roberto Solorio, #[redacted]
Deputy Eric Saavedra, #[redacted]

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MEMORANDUM

TO: CAPTAIN STEVEN KATZ
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of John Berry
J.S.I.D. File #15-0338
L.A.S.D. File #015-13249-1321-013

DATE: September 8, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 6, 2015, fatal shooting of John Berry by Los Angeles County Sheriff's Department (LASD) Deputies Anthony Johnson, Michael Bitolas, Roberto Solorio and Eric Saavedra. We have concluded that the deputies acted lawfully in self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting at 12:12 p.m. on July 6, 2015. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, firearms analysis reports, photographic evidence and witness statements submitted to this office by LASD Homicide Bureau Detectives Robert Gray and Brandt House. The voluntary statements of Deputies Johnson, Solorio and Saavedra were considered in this analysis.

FACTUAL ANALYSIS

On July 6, 2015 at approximately 10:32 a.m., [redacted], the [redacted] of John Berry, called the Lakewood Sheriff's business line and asked for a deputy to be sent out to place a 5150 hold on Berry who was sitting in his car on the front lawn of the family home located at [redacted] reported that his [redacted] John was schizophrenic and off his medications.

[1] [redacted] is a sworn federal police officer employed by the Veteran's Hospital. Prior to calling the Lakewood station, [redacted] attempted to contact the LASD Mental Evaluation Team (M.E.T.) by leaving a voicemail message asking for assistance with his [redacted] who was "5150…off his meds…up for three days…not really violent, not too crazy but a little delusional." M.E.T. personnel returned his call at 10:40 a.m. but [redacted] did not pick up the phone.

Deputies Johnson, Bitolas, Solorio, and Saavedra initially responded to a radio call of "918" which is Sheriff's radio code for an insane person. The deputies met at the intersection of Michelson Street and Adenmoor Avenue, approximately one block south of the location and then drove to the location. As the deputies were driving, they received an update to the call which stated the suspect was off his meds, seated in his vehicle and the [redacted] ([redacted] was attempting to get him out of the vehicle because of his erratic behavior. They were advised that [redacted] reported that the suspect would flee once he saw the deputies. As the deputies drove north on Adenmoor Avenue, they saw Berry's vehicle, a black BMW, stopped on the front lawn facing southeast.[2] Several people were standing around the BMW apparently communicating with Berry who was seated in the driver's seat.

As Johnson drove his patrol vehicle up to the west side of the street, Berry looked in his direction and then accelerated the BMW off the grass into the street toward Johnson's patrol vehicle. Johnson swerved to the east to avoid colliding with Berry and stopped in the middle of Adenmoor Avenue facing north. Saavedra, who was behind Johnson, turned his patrol vehicle to the northwest near the west curb in front of the location. Berry drove in a southwest direction and collided with the front of Saavedra's vehicle. The BMW's front bumper was right up against the front grill of Saavedra's vehicle and the driver's side of the BMW was right next to the driver's side door of Johnson's vehicle, preventing Johnson from opening his door. Johnson drove forward in order to open his door and exit his vehicle. Berry continued to rev the engine of the BMW as it remained in bumper to bumper contact with Saavedra's vehicle.

Johnson, Bitolas and Saavedra ran to the driver's side of the BMW and attempted to remove Berry from the vehicle. Berry slapped the deputies' hands away as they tried to grab hold of him. Saavedra climbed over the front grill of his vehicle to reach the passenger side of Berry's vehicle. Saavedra heard Berry say, "Fuck you I'm not going." Johnson heard Berry yell, "I know my rights, you guys are being unlawful." At this point, Berry began kicking the deputies with his left leg while still seated in the driver's seat. Deputies Solorio and Grant Oberle arrived at the driver's side of the BMW.[3] Bitolas sprayed Berry with pepper spray but it had no effect other than making him more resistive.[4] Berry began to kick the deputies even harder. Bitolas was able to grab Berry's left arm at which time Johnson placed one handcuff on Berry's left wrist. Berry's right hand was still firmly gripping the steering wheel. Johnson attempted to hold onto Berry's left hand via the handcuff, but lost his grip at least twice. At this time, Berry kicked Bitolas and Johnson. Solorio tased Berry with no effect. Johnson also tased Berry but it too had no effect.[5] Johnson requested assistance and a field sergeant via his radio. Sergeant Jobling arrived approximately thirty seconds later. During the incident, deputies ordered Berry to get out of the vehicle numerous times but he ignored their

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[2] [redacted] is a single family residence located on the [redacted] of Adenmoor Avenue, a north-south street.

[3] Each of the five deputies (Johnson, Bitolas, Solorio, Saavedra and Oberle) was wearing a class A Sheriff's uniform and badge. All were equipped with department authorized firearms. Johnson, Saavedra and Solorio were armed with Smith & Wesson, 9mm semi-automatic pistols. Bitolas was armed with a Beretta 92FS semi-automatic pistol. All deputies had OC spray and Johnson, Bitolas and Solorio were equipped with Tasers.

[4] When the pepper spray was sprayed directly into Berry's face, he shook his head and continued resisting and fighting with deputies.

[5] Johnson was shocked by the deployed Taser while attempting to grab onto Berry to pull him out of the vehicle.

commands.[6] Saavedra got into the front passenger seat of the BMW and sprayed Berry with pepper spray which had no effect. He told Berry to let go of the steering wheel and struck Berry's right hand with a flashlight in an attempt to get Berry to let go of the steering wheel. Solorio took the cartridge out of his Taser and attempted to apply a contact stun to Berry. As he did this, either Berry grabbed the Taser or Solorio lost hold of the Taser. Johnson struck Berry twice in the arm with his collapsible baton. Berry alternated between kicking the driver's side door which was striking Johnson and Oberle in the legs and kicking them directly.

Oberle, who was standing between the BMW's open driver's side door and Johnson's patrol vehicle, told Berry, "Stop fighting, just get out of the car. You're done." At this point, the BMW moved forward slightly.[7] Solorio was standing next to the front left wheel of the BMW. Oberle was standing just inside the BMW's driver side door. Solorio yelled for Oberle to move because he believed that Berry would move the BMW again. Suddenly, Berry put the BMW in reverse and accelerated in a northwest direction. As he did so, his driver's side door hyperextended and appeared to have crushed Oberle between the BMW and the side of Johnson's vehicle. Solorio yelled, "Grant (Oberle), Get out!" There was an audible sound of glass breaking and metal twisting. Oberle fell onto the pavement between the two cars. The deputies believed that Oberle was pinned between the two vehicles and was being crushed.[8] In fear for Oberle's life and the lives of other deputies, Johnson, Bitolas, Saavedra and Solorio removed their firearms and fired multiple shots at Berry who was still in the driver's seat of the BMW.[9] After the shooting, Berry stopped moving and was leaning back in the driver's seat. Deputy Sergio Santoyo observed that the BMW engine was still revving. He placed the vehicle in neutral. Santoyo asked Oberle if he was okay but Oberle was unable to reply. Los Angeles County Fire Department paramedics arrived and pronounced Berry dead at the scene at 10:58 a.m. Oberle was treated and transported via ambulance to Long Beach Memorial Hospital.[10]

On July 6, 2015, Los Angeles County Deputy Medical Examiner Juan Carrillo performed an autopsy on John Berry and concluded that his death resulted from multiple gunshot wounds. In total, Berry sustained eighteen gunshot wounds including four fatal gunshot wounds to the chest, two non-fatal gunshot wounds to the head and neck, two non-fatal gunshot wounds to the back, two

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6 [redacted] asked to speak with Berry but, fearing for his safety, deputies refused to allow him to get close to the BMW which was still running.

7 Portions of the incident were captured on a cell phone video that was taken by a [redacted] across the street. The video shows the BMW repeatedly moving forward into Saavedra's patrol vehicle as if Berry was trying to push the patrol vehicle out of the way.

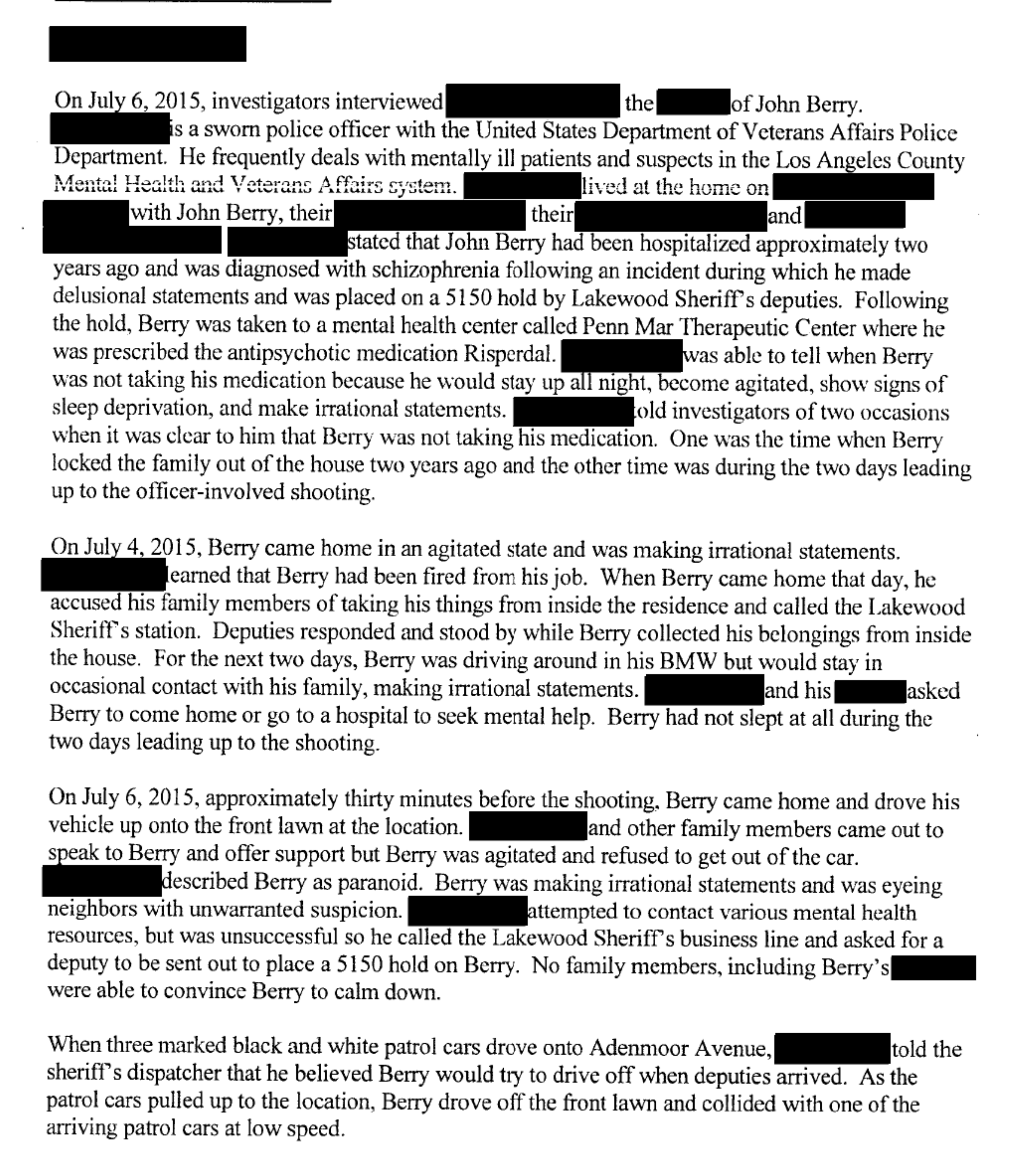
8 Johnson told investigators that Oberle was pinned between the BMW and Johnson's patrol vehicle. Solorio believed that Oberle's leg was crushed and that he was about to be run over by the BMW. Saavedra stated that Oberle was being crushed by the BMW's driver side door that was bending backwards as Berry drove the BMW in reverse. The cell phone video initially shows Oberle standing between the two vehicles and then Oberle is off camera because the phone appears to be moving erratically and not capturing the incident. When the incident reappears in view, Oberle is on the ground with only his head showing between the two vehicles. Oberle told investigators that his legs were squeezed between the two vehicles and as Berry continued to reverse the BMW, he fell onto his back on the asphalt between the two vehicles. He believes that he would have been killed and other deputies seriously injured if the deputies had not shot Berry.

9 An examination of the deputies' firearms revealed that Johnson fired thirteen rounds, Bitolas fired five rounds, Solorio fired four rounds and Saavedra fired nine rounds.

10 Oberle was treated for multiple abrasions and contusions to both legs and lacerations to his right arm from glass fragments.

non-fatal gunshot wounds to the left chest and shoulder, and eight non-fatal gunshot wounds to the arms and hands. The toxicology analysis detected marijuana in Berry's blood.

Civilian Witness Statements



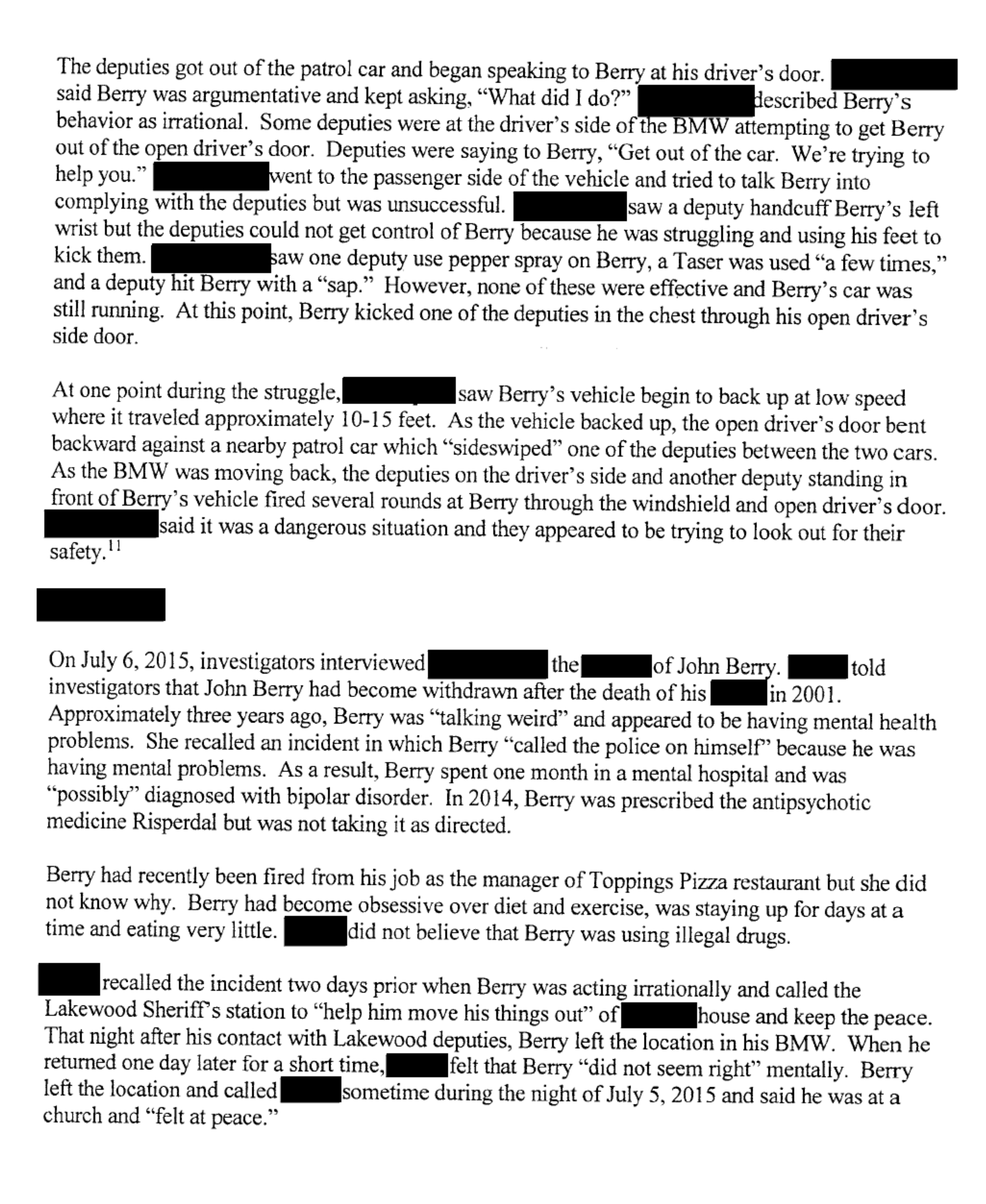
[redacted]

On July 6, 2015, investigators interviewed [redacted] the [redacted] of John Berry. [redacted] is a sworn police officer with the United States Department of Veterans Affairs Police Department. He frequently deals with mentally ill patients and suspects in the Los Angeles County Mental Health and Veterans Affairs system. [redacted] lived at the home on [redacted] with John Berry, their [redacted] their [redacted] and [redacted] stated that John Berry had been hospitalized approximately two years ago and was diagnosed with schizophrenia following an incident during which he made delusional statements and was placed on a 5150 hold by Lakewood Sheriff's deputies. Following the hold, Berry was taken to a mental health center called Penn Mar Therapeutic Center where he was prescribed the antipsychotic medication Risperdal. [redacted] was able to tell when Berry was not taking his medication because he would stay up all night, become agitated, show signs of sleep deprivation, and make irrational statements. [redacted] told investigators of two occasions when it was clear to him that Berry was not taking his medication. One was the time when Berry locked the family out of the house two years ago and the other time was during the two days leading up to the officer-involved shooting.

On July 4, 2015, Berry came home in an agitated state and was making irrational statements. [redacted] learned that Berry had been fired from his job. When Berry came home that day, he accused his family members of taking his things from inside the residence and called the Lakewood Sheriff's station. Deputies responded and stood by while Berry collected his belongings from inside the house. For the next two days, Berry was driving around in his BMW but would stay in occasional contact with his family, making irrational statements. [redacted] and his [redacted] asked Berry to come home or go to a hospital to seek mental help. Berry had not slept at all during the two days leading up to the shooting.

On July 6, 2015, approximately thirty minutes before the shooting, Berry came home and drove his vehicle up onto the front lawn at the location. [redacted] and other family members came out to speak to Berry and offer support but Berry was agitated and refused to get out of the car. [redacted] described Berry as paranoid. Berry was making irrational statements and was eyeing neighbors with unwarranted suspicion. [redacted] attempted to contact various mental health resources, but was unsuccessful so he called the Lakewood Sheriff's business line and asked for a deputy to be sent out to place a 5150 hold on Berry. No family members, including Berry's [redacted] were able to convince Berry to calm down.

When three marked black and white patrol cars drove onto Adenmoor Avenue, [redacted] told the sheriff's dispatcher that he believed Berry would try to drive off when deputies arrived. As the patrol cars pulled up to the location, Berry drove off the front lawn and collided with one of the arriving patrol cars at low speed.



The deputies got out of the patrol car and began speaking to Berry at his driver's door. [redacted] said Berry was argumentative and kept asking, "What did I do?" [redacted] described Berry's behavior as irrational. Some deputies were at the driver's side of the BMW attempting to get Berry out of the open driver's door. Deputies were saying to Berry, "Get out of the car. We're trying to help you." [redacted] went to the passenger side of the vehicle and tried to talk Berry into complying with the deputies but was unsuccessful. [redacted] saw a deputy handcuff Berry's left wrist but the deputies could not get control of Berry because he was struggling and using his feet to kick them. [redacted] saw one deputy use pepper spray on Berry, a Taser was used "a few times," and a deputy hit Berry with a "sap." However, none of these were effective and Berry's car was still running. At this point, Berry kicked one of the deputies in the chest through his open driver's side door.

At one point during the struggle, [redacted] saw Berry's vehicle begin to back up at low speed where it traveled approximately 10-15 feet. As the vehicle backed up, the open driver's door bent backward against a nearby patrol car which "sideswiped" one of the deputies between the two cars. As the BMW was moving back, the deputies on the driver's side and another deputy standing in front of Berry's vehicle fired several rounds at Berry through the windshield and open driver's door. [redacted] said it was a dangerous situation and they appeared to be trying to look out for their safety.[11]

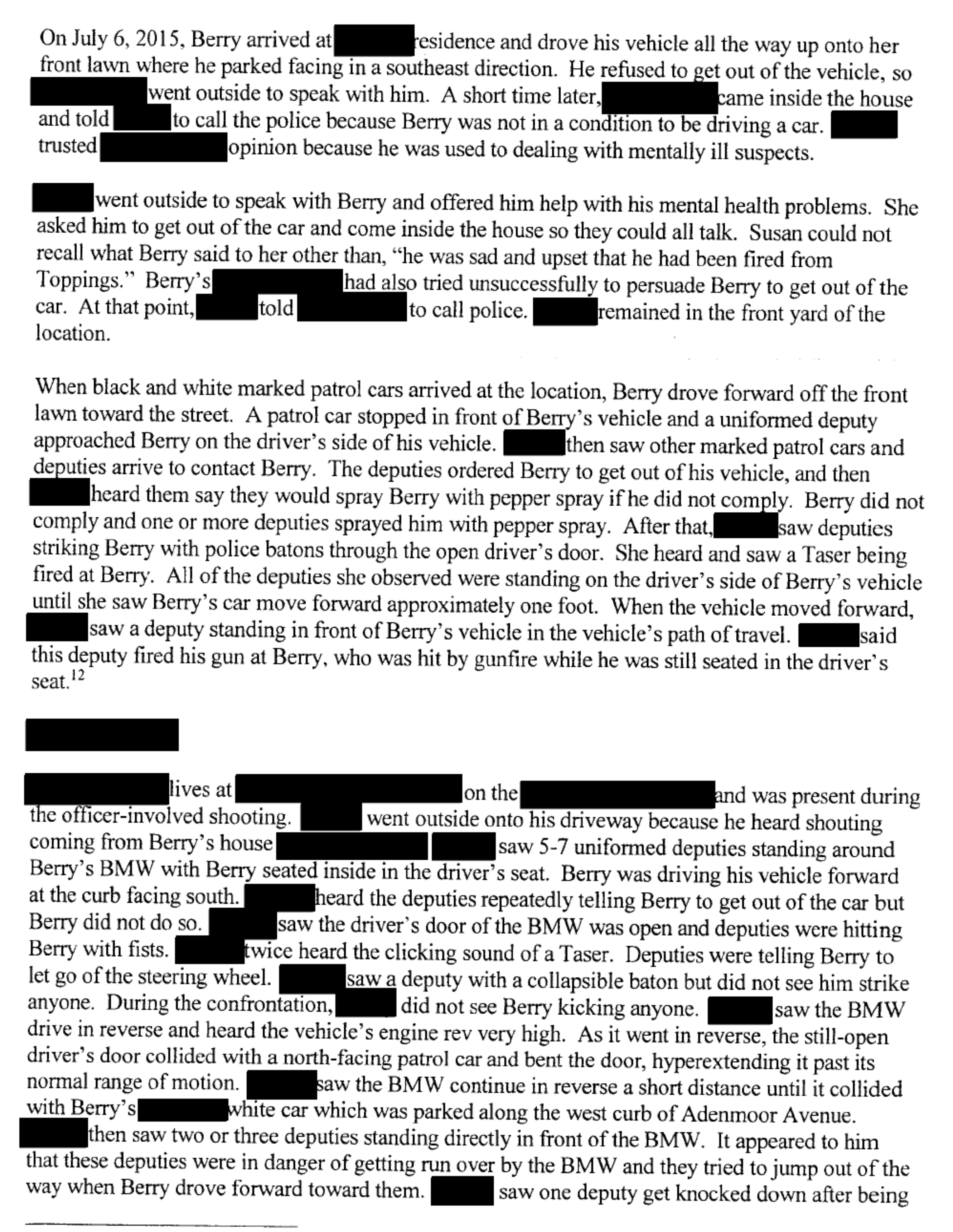
[redacted]

On July 6, 2015, investigators interviewed [redacted] the [redacted] of John Berry. [redacted] told investigators that John Berry had become withdrawn after the death of his [redacted] in 2001. Approximately three years ago, Berry was "talking weird" and appeared to be having mental health problems. She recalled an incident in which Berry "called the police on himself" because he was having mental problems. As a result, Berry spent one month in a mental hospital and was "possibly" diagnosed with bipolar disorder. In 2014, Berry was prescribed the antipsychotic medicine Risperdal but was not taking it as directed.

Berry had recently been fired from his job as the manager of Toppings Pizza restaurant but she did not know why. Berry had become obsessive over diet and exercise, was staying up for days at a time and eating very little. [redacted] did not believe that Berry was using illegal drugs.

[redacted] recalled the incident two days prior when Berry was acting irrationally and called the Lakewood Sheriff's station to "help him move his things out" of [redacted] house and keep the peace. That night after his contact with Lakewood deputies, Berry left the location in his BMW. When he returned one day later for a short time, [redacted] felt that Berry "did not seem right" mentally. Berry left the location and called [redacted] sometime during the night of July 5, 2015 and said he was at a church and "felt at peace."

[11] On July 7, 2015, [redacted] spoke with Erlinda Gallegos Crosthwaite at LASD M.E.T., informing her that Berry had been shot and killed by Lakewood deputies. He told her that he had the utmost respect for the Sheriff's Department and said that everyone involved in the incident was very professional.



On July 6, 2015, Berry arrived at [redacted] residence and drove his vehicle all the way up onto her front lawn where he parked facing in a southeast direction. He refused to get out of the vehicle, so [redacted] went outside to speak with him. A short time later, [redacted] came inside the house and told [redacted] to call the police because Berry was not in a condition to be driving a car. [redacted] trusted [redacted] opinion because he was used to dealing with mentally ill suspects.

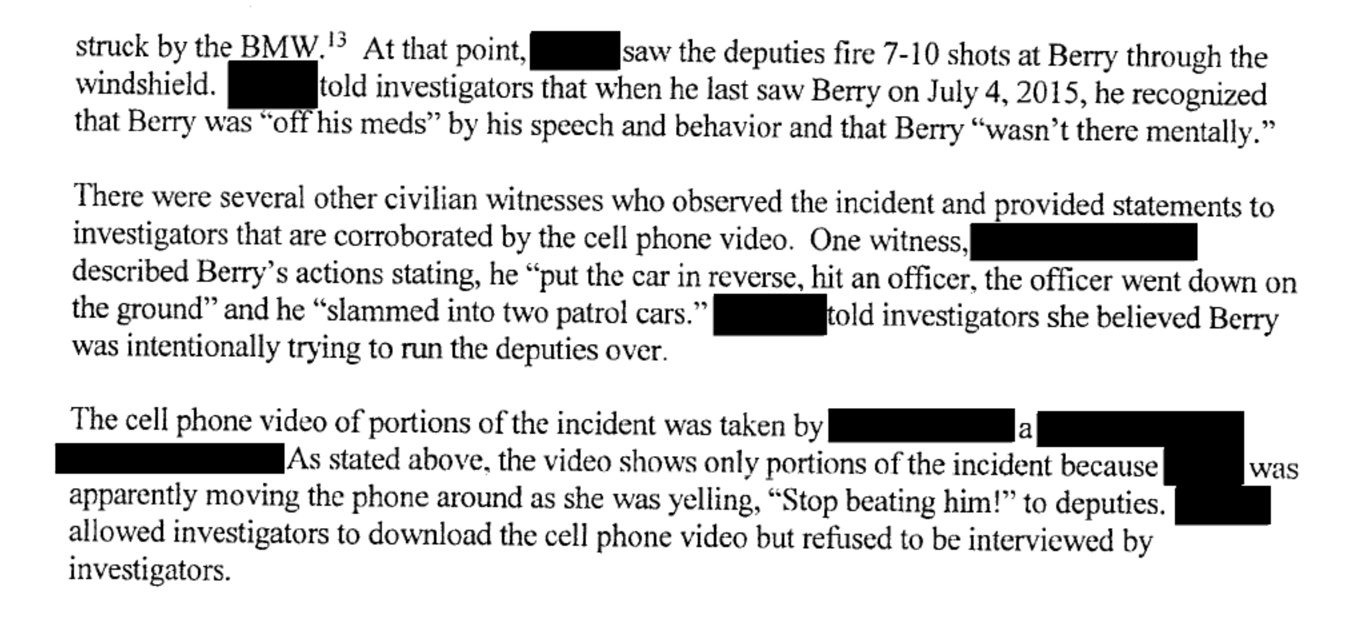
[redacted] went outside to speak with Berry and offered him help with his mental health problems. She asked him to get out of the car and come inside the house so they could all talk. Susan could not recall what Berry said to her other than, "he was sad and upset that he had been fired from Toppings." Berry's [redacted] had also tried unsuccessfully to persuade Berry to get out of the car. At that point, [redacted] told [redacted] to call police. [redacted] remained in the front yard of the location.

When black and white marked patrol cars arrived at the location, Berry drove forward off the front lawn toward the street. A patrol car stopped in front of Berry's vehicle and a uniformed deputy approached Berry on the driver's side of his vehicle. [redacted] then saw other marked patrol cars and deputies arrive to contact Berry. The deputies ordered Berry to get out of his vehicle, and then [redacted] heard them say they would spray Berry with pepper spray if he did not comply. Berry did not comply and one or more deputies sprayed him with pepper spray. After that, [redacted] saw deputies striking Berry with police batons through the open driver's door. She heard and saw a Taser being fired at Berry. All of the deputies she observed were standing on the driver's side of Berry's vehicle until she saw Berry's car move forward approximately one foot. When the vehicle moved forward, [redacted] saw a deputy standing in front of Berry's vehicle in the vehicle's path of travel. [redacted] said this deputy fired his gun at Berry, who was hit by gunfire while he was still seated in the driver's seat.[12]

[redacted]

[redacted] lives at [redacted] on the [redacted] and was present during the officer-involved shooting. [redacted] went outside onto his driveway because he heard shouting coming from Berry's house [redacted] [redacted] saw 5-7 uniformed deputies standing around Berry's BMW with Berry seated inside in the driver's seat. Berry was driving his vehicle forward at the curb facing south. [redacted] heard the deputies repeatedly telling Berry to get out of the car but Berry did not do so. [redacted] saw the driver's door of the BMW was open and deputies were hitting Berry with fists. [redacted] twice heard the clicking sound of a Taser. Deputies were telling Berry to let go of the steering wheel. [redacted] saw a deputy with a collapsible baton but did not see him strike anyone. During the confrontation, [redacted] did not see Berry kicking anyone. [redacted] saw the BMW drive in reverse and heard the vehicle's engine rev very high. As it went in reverse, the still-open driver's door collided with a north-facing patrol car and bent the door, hyperextending it past its normal range of motion. [redacted] saw the BMW continue in reverse a short distance until it collided with Berry's [redacted] white car which was parked along the west curb of Adenmoor Avenue. [redacted] then saw two or three deputies standing directly in front of the BMW. It appeared to him that these deputies were in danger of getting run over by the BMW and they tried to jump out of the way when Berry drove forward toward them. [redacted] saw one deputy get knocked down after being

[12] [redacted] statement is inconsistent with the cell phone video that shows the deputies fired at Berry only after he drove the BMW in reverse with Oberle between the BMW and a patrol vehicle.



struck by the BMW.[13] At that point, [redacted] saw the deputies fire 7-10 shots at Berry through the windshield. [redacted] told investigators that when he last saw Berry on July 4, 2015, he recognized that Berry was "off his meds" by his speech and behavior and that Berry "wasn't there mentally."

There were several other civilian witnesses who observed the incident and provided statements to investigators that are corroborated by the cell phone video. One witness, [redacted] described Berry's actions stating, he "put the car in reverse, hit an officer, the officer went down on the ground" and he "slammed into two patrol cars." [redacted] told investigators she believed Berry was intentionally trying to run the deputies over.

The cell phone video of portions of the incident was taken by [redacted] a [redacted] As stated above, the video shows only portions of the incident because [redacted] was apparently moving the phone around as she was yelling, "Stop beating him!" to deputies. [redacted] allowed investigators to download the cell phone video but refused to be interviewed by investigators.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505. An automobile may be used as "a deadly weapon" or "instrument" or "force likely to produce great bodily injury." *People v. Claborn* (1964) 224 Cal. App. 2d 38.

The right of self-defense is the same whether the danger is real or apparent. If a person acted from reasonable and honest convictions he cannot be held criminally responsible for a mistake in the actual extent of the danger, when other reasonable men would alike have been mistaken. *People v. Jackson* (1965) 233 Cal. App. 2d 639. In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent. See also, CALCRIM No. 3470.

The "reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." The reasonableness of the force used "requires careful attention to the facts and circumstances" of the particular incident. *Graham v. Connor* (1989) 490 U.S. 386, 396-397. "[T]hus, under *Graham*, we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the

[13] [redacted] statement is inconsistent with the cell phone video that shows the BMW first moved forward and then reversed. Contrary to [redacted] statement, the deputy (Oberle) was knocked to the ground when the BMW was moving in reverse.

theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes "reasonable" action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure." *Smith v. Freland* (6th Cir. 1992) 954 F, 2d 343, 347.

CONCLUSION

The evidence examined in this investigation shows that John Berry posed a grave threat to the deputies at the scene from the moment that he drove off the front lawn of the location nearly missing Johnson's patrol vehicle and hitting Saavedra's vehicle head-on. Deputies unsuccessfully utilized verbal commands, handcuffs, pepper spray, Tasers and collapsible batons in their attempt to remove Berry from his vehicle. Berry repeatedly revved the motor and drove forward, pushing Saavedra's vehicle. This act posed a significant danger to the deputies that were standing next to Berry's vehicle. When Berry suddenly put the car in reverse and backed up with his driver's door open, Oberle was caught between Berry's vehicle and Johnson's patrol car. The force resulting from Berry reversing the vehicle caused the open door to hyperextend and fold completely back between the two vehicles. Oberle was first pinned between the vehicles and then dropped to the ground. The shooting deputies believed that Oberle was in danger of being run over by the BMW. There was no reasonable alternative other than to fire their weapons and end the threat.

We find that Deputies Johnson, Bitolas, Solorio and Saavedra were justified in using deadly force and acted in lawful self-defense and in defense of others. We are therefore closing our file and will take no further action in this matter.

EDUCATION-BASED DISCIPLINE AGREEMENT

This Agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department," and Deputy Anthony Johnson, Employee No. [redacted] hereinafter referred to as "Deputy Johnson."

The Department and Deputy Johnson are parties to this dispute and desire to settle all issues involved in IAB No. IV2434216 upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Deputy Johnson for and in consideration of the mutual covenants contained herein, agree as follows:

1. Both parties agree that the two (2) day suspension shall stand. The Letter of Imposition shall contain the same charge as the Letter of Intent.

2. The Department will, upon execution of this Education-Based Discipline (EBD) Agreement, hold the two (2) days in abeyance pending completion of the below listed classes.

3. Deputy Johnson understands that if he becomes the subject of a founded investigation involving similar violations of the Manual of Policy and Procedures, and that if the event resulting in the founded investigation occurred within the twelve (12) month period of the date of execution of this agreement, the two (2) days held in abeyance shall be imposed. In addition, Deputy Johnson understands that he will be subjected to additional discipline for each and every founded violation of the Department's Manual of Policy and Procedures.

4. Both parties agree and understand that Deputy Johnson's records will reflect that the two (2) day suspension was imposed and may be used for the purposes of demonstrating "progressive discipline."

5. Deputy Johnson further agrees to attend and complete the below listed EBD courses and understands that failure to complete **all** of the courses and assignment shall result in the imposition of the two (2) days held in abeyance:

- Lieutenants' Interactive Forum for Education (LIFE) class (8 hours)
- Laser 1 – CPT Centralized (8 hours)—**Completed on August 5, 2015**
- Write an EBD evaluation reflecting on your experience with the EBD process.

6. The Department may adjust Deputy Johnson's schedule to participate in the EBD course and EBD item as EBD is conducted on-duty.

7. Deputy Johnson agrees to cooperate with his Unit Commander to complete the course as soon as practicable but no longer than one (1) year from the date of execution of this EBD Agreement.



8. Deputy Johnson further agrees to waive any and all further administrative or judicial remedies with respect to the Letter of Imposition and the modified discipline, and also waives any administrative or judicial remedies with respect to any imposition pursuant to paragraphs three (3) and five (5), above. This waiver shall include, but not be limited to, appeals to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission.

9. The parties further agree that this EBD Agreement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice.

10. In consideration of the terms and conditions set forth herein, Deputy Johnson agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Deputy Johnson concerning the subject matter referred to herein. Additionally, Deputy Johnson hereby acknowledges that he has not been the subject of discrimination in any form, including, but not limited to, discrimination, retaliation or harassment, based upon age, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, parental status, sexual orientation or gender and that he has no claim against the Department for any such discrimination, whether any such claim is presently known or not known by him.

11. Deputy Johnson further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> *"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."*

12. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this EBD Agreement.

13. The parties agree that the foregoing comprises the entire EBD Agreement between the parties and that there have been no other promises made by any party. Any modification of this EBD Agreement must be in writing.

I have read the foregoing EBD Agreement, and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

Date: 9-19-17	Date: 09/19/17
[signature]	James P. Wolak
Deputy Anthony Johnson #[redacted]	James P. Wolak, Captain Lakewood Station

SETTLEMENT AGREEMENT

This agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department," and Deputy Eric C. Saavedra, Employee Number [redacted] hereinafter referred to as "Grievant."

The Department and Grievant are parties to this dispute and desire to settle all issues involved in IAB IV2434216 upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Grievant for and in consideration of the mutual covenants contained herein, agree as follows:

1. Both parties agree that the fifteen (15) day suspension shall stand. Both parties agree that the Letter of Imposition shall be adjusted to February 28, 2017, and shall contain the same charges as the Letter of Intent.

2. The Department will, upon execution of this agreement, hold ten (10) days in abeyance pending completion of the below listed training. The remaining five (5) days shall be imposed.

3. Deputy Saavedra has completed the following training and will be credited for the EBD courses:

- TAS – Laser I class (8 hours)
- TAS – Laser II class (4 hours)
- TAS – EASS class (8 hours)
- EBL – Principled Policing class (8 hours)

4. The Grievant agrees to attend and complete the below listed EBD courses and understands that failure to complete **all** the courses and assignment shall result in the imposition of the ten (10) days held in abeyance:

- Lieutenants' Interactive Forum for Education (LIFE) class (8 hours)
- Professional Development (Ethical Decision Making class (8 hours)
- Write an EBD evaluation reflecting on your experience with the EBD process.



5. The Grievant understands that if he becomes the subject of a founded investigation involving similar violations of the Manual of Policy and Procedures, and that if the event resulting in the founded investigation occurred within the twelve (12) month period of the date of execution of this agreement, the ten (10) days held in abeyance shall be imposed. In addition, the Grievant understands that he will be subjected to additional discipline for each and every founded violation of the Department's Manual of Policy and Procedures.

6. Both parties agree and understand that the Grievant's records will reflect that the fifteen (15) day suspension was imposed and may be used for the purposes of demonstrating "progressive discipline."

7. The Department may adjust the Grievant's schedule to participate in EBD courses and EBD items as EBD is conducted on-duty.

8. The Grievant agrees to cooperate with his Unit Commander to complete the courses as soon as practicable, but no longer than one (1) year from the date of execution of this Agreement.

9. The Grievant agrees to withdraw his grievance and waive any and all further administrative or judicial remedies with respect to the Letter of Imposition and the modified discipline, and also waives any administrative or judicial remedies with respect to any imposition pursuant to paragraph four (4) and paragraph five (5), above. This waiver shall include, but not be limited to, appeals to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission. The parties further agree that this Settlement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice.

10. In consideration of the terms and conditions set forth herein, Grievant agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the

County and Grievant concerning the subject matter of the grievance referred to herein. Additionally, Grievant specifically acknowledges that he has not been the subject of discrimination in any form, including, but not limited to, discrimination, retaliation or harassment, based upon age, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, parental status, sexual orientation or gender and that he has no claim against the Department for any such discrimination, whether any such claim is presently known or not known by him.

11. The Grievant further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> *"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."*

12. This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy or facsimile transmission of the Settlement Agreement, including signatures, shall be deemed to constitute evidence of the Settlement Agreement having been executed.

13. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this Agreement.

14. The parties agree that the foregoing comprises the entire agreement between the parties and that there have been no other promises made by any party. Any modification of this agreement must be in writing.

I have read the foregoing Settlement Agreement and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

For the Sheriff's Department:

Date: 10-25-17

Deputy Eric C. Saavedra
Employee #[redacted]

Date: 10-26-17

Buddy Goldman, Chief
South Patrol Division Headquarters